

May 26, 2010

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TOWN OF NEW WINDSOR

PLANNING BOARD

MAY 26, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
HOWARD BROWN
DANIEL GALLAGHER

ALTERNATE: HENRY SCHEIBLE
HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN
NEIL SCHLESINGER
JENNIFER GALLAGHER, BUILDING INSPECTOR

REGULAR_MEETING

MR. ARGENIO: I'd like to call to order the May 26, 2010 meeting of the New Windsor Planning Board. Please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was

recited)

MR. ARGENIO: I'm going to give Henry and Neil a moment to arrive and if they don't arrive in the next few minutes, I'm going to invite the alternates up but they're certainly there listening to everything here.

APPROVAL_OF_MINUTES_DATED_4/28/10

MR. ARGENIO: First item is the approval of the minutes dated April 28, 2010 and sent out via e-mail on May 18, 2010. If anybody sees fit, I'll take a motion to accept them as written.

MR. BROWN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

ANNUAL_MOBILE_HOME_PARK_REVIEW

JHCS_MOBILE_HOME_PARK

MR. ARGENIO: Next item on tonight's agenda after the minutes is the annual mobile home park review, JHCS Mobile Home Park. Somebody here to represent this? Sir, your name and address for the benefit of the stenographer.

MR. GARRISON: Richard Garrison.

MR. ARGENIO: I've spoken to Jennifer today, unfortunately, she can't be with us this evening, her child is ill and she's attending to that which is certainly more important than what we're doing here. Have you brought with you a check made in favor of the Town of New Windsor in the amount of \$250?

MR. GARRISON: Yes.

MR. ARGENIO: Jennifer tells me everything is in order at this trailer park, for the benefit of the members. If anybody sees fit, I'll accept a motion that we offer them a one year extension.

MR. BROWN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been and seconded that the Town of New Windsor Planning Board renew their permit, that's the JHCS Mobile Home Park. Roll call.

ROLL CALL

MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

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MR. ARGENIO: Thank you for coming in and thank you for maintaining a nice facility there. Mr. Ferguson and Mr. Scheible, come on up.

PUBLIC HEARINGS

ANGELO_ESTATES_(99-14)

MR. ARGENIO: We have two public hearings on tonight's agenda. The first one is Angelo Estates on Shaw Road. This application proposes subdivision of the 4.4 plus or minus acre total property into three single family residential lots. The plan was previously reviewed at the 28 May, 2008, 27 January, 2010 planning board meetings. The application is before this board for a public hearing tonight. Sir, your name and the firm you're with for the benefit of the stenographer?

MR. CELLO: Jonathan Cello, Casey Engineering.

MR. ARGENIO: Mr. Cello, please tell us, the members that is what changes you've made, where you've come from with this plan. When you're done, we'll review it and then we'll open it up for the public for any commentary they may have and then we'll bring it back to the board.

MR. CELLO: Since last time we were here we added the soil testing witnessed by Mark Edsall's office as well as the wells on adjoining properties along Shaw Road, the adjoining property to the north and adjoining property to the south, that's the minor changes we made.

MR. ARGENIO: Acquired the variances that you needed, is that correct?

MR. CELLO: Yes, that was in September, 2008.

MR. ARGENIO: Can you tell us what the variances are or verbalize them?

MR. CELLO: We got gross lot area for all three lots, side yard setback for the existing residence on lot

number 1 and lot width variance for lot number 1 and lot number 2.

MR. SCHEIBLE: The last time you were in here my question was and I don't see the marks on here, my question was how close were these two sewer systems in lot number 2 and 3? But I see there's no existing proposed wells within so there's nothing neighboring, there's nothing neighboring here or here right now.

MR. ARGENIO: Let me just qualify that when you say nothing, are you referring to wells or septic or anything at all?

MR. SCHEIBLE: They're saying there are no existing or are proposed wells within 200 feet of the property line, is there anything there right now?

MR. CELLO: This is the soccer field and this portion's currently undeveloped.

MR. SCHEIBLE: That was my question right now.

MR. ARGENIO: We don't have a lot of commentary, technical commentary that's from the engineer. As such, what I'd like to do is open it up to the public. Can I have the notice please while the members continue to review it? And we'll receive any input the public has and then we'll bring it back to the board. On the 30th day of April, 2010, Nicole prepared six envelopes containing notice of public hearing that she got from the assessor pertinent to this application and she executed a mailing. At this point in time, the public hearing is open. If you'd like to comment on this application, please raise your hand, be recognized and you'll be afforded that opportunity. Does anybody want to comment on this application? Seeing no hands, I'll accept a motion we close the public hearing.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded we close the public hearing for Angelo Estates minor subdivision. I'll have a roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Does anybody have anything else on this? Henry Scheible's comment was certainly well placed and it's been addressed. It's a fairly simple or should I say very simple 3 lot subdivision. There was one now there's three. Have we taken lead agency on this?

MR. EDSALL: I have it down as June 17, '99.

MR. ARGENIO: Very good. As such, if anybody sees fit, I'll accept a motion we declare negative declaration under the SEQRA process.

MR. SCHEIBLE: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion's been made and seconded we declare a negative dec for Angelo Estates minor subdivision under the SEQRA process.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. ARGENIO: I have here in the notes for the file that highway has been approved and it's subject to a field inspection. Mr. Cello, are you okay with that?

MR. CELLO: Yes.

MR. ARGENIO: And you'll comply with whatever reasonable request the highway superintendent makes of you?

MR. CELLO: Yes.

MR. ARGENIO: Fire was approved, 911 you need to have an address there. What does it say disapproved, you need to provide a street name and you need numbers on the lots to be supplied. Anything we're missing? We've seen this a few times and it's very, very simple.

MR. CORDISCO: Mr. Chairman, there are two additional items as pointed out by Mr. Edsall in his comments that if the board is going to move to approval on this project, we need to have as part of a condition of that approval would be the submission of a private road completion bond.

MR. ARGENIO: Yes, I was just going to comment on that.

MR. CORDISCO: And private road--

MR. ARGENIO: Private road maintenance agreement.

MR. EDSALL: Both.

MR. CORDISCO: They are two separate items. As far as I know, neither one has been submitted yet, not that there's any requirement.

MR. ARGENIO: I'm sorry, it's the maintenance agreement, what's the second one?

MR. CORDISCO: The completion bond.

MR. ARGENIO: Right, Mark has the bond here.

MR. EDSALL: Just for the record, those are the only two open items, all my previous comments have been addressed.

MR. CORDISCO: Also I just want to be sure that the applicant is aware are you asking for preliminary or preliminary and conditional final approval?

MR. CELLO: Both.

MR. CORDISCO: And under that scenario you understand there's a timeframe that starts clicking with that, it's 360 days?

MR. CELLO: That's fine.

MR. ARGENIO: Why are you using the term conditional final?

MR. CORDISCO: Conditional final would be the condition such as--

MR. ARGENIO: Subject to the items.

MR. CORDISCO: Correct.

MR. ARGENIO: I understand. There's a note here just for the record that the EOH has accepted the use of the Elgin shallow trench system. Do you guys to my right do you folks have anything, Dan or Henry?

MR. SCHEIBLE: I just have a maybe a stupid question here but is it going to be blacktopped this private

road or is it going to be a dirt road?

MR. CELLO: No, it's private.

MR. SCHEIBLE: We're not going to have a blacktopped road?

MR. CELLO: No, it will be a blacktopped road, there's a road section on page 2 in the lower left of page 2.

MR. ARGENIO: Shows it paved.

MR. EDSALL: Just for the record, the minimum standard in the Town Code is the sub-base plus a double surface commonly known as oil and chip.

MR. ARGENIO: Henry, they need to meet the law, the requirements set by law and one of those options in the private road section is that a shale road or a Item 4 road with a choker course with a double surface treatment, it appears that they've met that.

MR. EDSALL: They have.

MR. SCHEIBLE: And on down the road when this is decided to become a town road you'll make the changes acceptable at that time?

MR. CELLO: Sure.

MR. SCHEIBLE: Because this has happened before, I've seen this, okay.

MR. ARGENIO: If they want to do that they're going to have to meet the requirements of the Highway Superintendent Fayo. Anybody sees fit, I'll accept a motion for preliminary and final approval subject to what I'll read into the minutes.

MR. GALLAGHER: I'd like to make a motion for final

preliminary approval.

MR. ARGENIO: Motion has been made and seconded for final approval to Angelo Estates minor subdivision subject to filing an appropriate maintenance agreement that Dominic will accept and agree to and that they post the appropriate bond in the appropriate amount and in the appropriate form and you have to make Mr. Fayon happy. I'll have a roll call.

MR. EDSALL: One more can be payment of all fees.

MR. ARGENIO: Payment of all fees, that's certainly obvious.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I thank you Mr. Biagini and thank you, Mr. Cello.

PUBLIC_HEARING:

METROPCS_SITE_PLAN_(10-12)

MR. ARGENIO: Next on tonight's agenda is MetroPCS. This is the continuation of the public hearing that it was pointed out to us last meeting that we missed it by one day, no one cares whose fault it was, but the notification timing was not in conformance with the law so we tabled the public hearing till tonight and here we are. Same agenda and same rules apply, I think I know the answer to the question but I'm going to ask it, well, not the first question, first question is your name and the firm you're with.

MR. MORANDO: Good evening, Mr. Chairman, members of the board, I'm Anthony Morando, attorney with Cutty and Feder representing the applicant, MetroPCS.

MR. ARGENIO: I think I know the answer to this but I'm going to ask it anyway. Has there been any changes since the last time you've been in front of this board?

MR. MORANDO: No.

MR. ARGENIO: It appears to me that the application at the last meeting was in conformance with the laws of the Town of New Windsor, we just had that issue with the public hearing so we're here to address that tonight. Is there anything the members would like to ask of the applicant prior to opening it up to the public hearing? At this point in time I'd like to open it up to the public, if anybody has a comment or a question, please raise your hand, be recognized by the chair and you'll be afforded the opportunity to talk. But I have a couple things I want to say, one, let's try to keep it down to a couple of three minutes or so so we don't cheat anybody else who would like to speak. And two, I'd appreciate in the interest of efficiency that we don't visit the same subject time and time

again. If somebody has a question, please raise your hand, step up and your name and your address for the stenographer.

MR. WEHZEL: My name is Gary Wehzel and I live at 1003 Forest Glen which I guess is right around, you know, this particular--

MR. ARGENIO: Counselor, would you please come up to the easel?

MR. MORANDO: Yes.

MR. ARGENIO: What's your question, sir?

MR. WEHZEL: Can you describe exactly what you're looking to do and what the impact will be and what studies you might have done? Explain to us what studies might have been done?

MR. MORANDO: Absolutely, I'll reiterate what we explained at the last meeting.

MR. ARGENIO: Go ahead, reiterate.

MR. MORANDO: This is a co-location, we're going to be placing six new antennas on an existing tower. The applicant is MetroPCS, they're a new entry into the wireless market. They received a license from the FCC, the Federal agency and by receiving that license, they are obligated to build out their network, building out their network requires them to provide coverage to certain areas. That's what we're here to do. By doing this, we add these antennas to the tower, we're going to have to expand the tower 12 feet putting antennas 10 feet higher than the existing tower which is now 152 feet which will be 164 feet.

MR. ARGENIO: My memory tells me it was 12, not 10.

MR. MORANDO: It's 12 feet but the antennas are 12 feet higher. That being said, our proposal here again would be to expand it 12 feet. We have to put a cabinet at the base of the tower, four cabinets actually which is in a 10 x 16 area, it's not visible outside of the existing compound. Do you have any other questions?

MR. WEHZEL: What does it do with regard to the strength of the signals coming in? Does it draw more strength, less strength in terms of the signal capacity and the frequency that's going into the tower?

MR. MORANDO: What the FCC does is they set a maximum permitted emissions level. In our packet, we have explained that we're well below that, we're less than one percent of what the maximum levels would be. So if you're talking emissions level we're substantially in compliance with that.

MR. WEHZEL: Okay, alright, do you have any materials with you that we can take or have anything on this?

MR. MORANDO: As far as?

MR. WEHZEL: So we can just review it outside of here other than what I'm hearing right now as to what the limits are that you say you're meeting with the FCC.

MR. MORANDO: We're not, our compliance with the FCC standards, yeah, our application which we have submitted with the town and has been on record with the town we can show you a study if you'd like.

MR. ARGENIO: Yeah, we're not going to go very far with this issue and I'm going to tell you why, because what, sir, I want to address the person asking the question is the reason is is because what they're doing is subject to the review part of the public record and the review of our attorney and our town engineer for conformance with the law and understand everybody that

at the end of the day, the applicant is obligated to conform with the law. And based on my discussions with Mr. Edsall, and Counselor Cordisco and all the comments they have given us tonight what they have done appears to be so far congruent with the laws of the Town of New Windsor. Do you have another question, sir?

MR. WEHZEL: That's it.

MR. ARGENIO: Anybody else have a question? Sir in the flannel shirt, please step forward.

MR. VRIESEM: Sam Vriesem, Jr. Last time I was here, I asked some questions about modulated frequencies and you said to write them down. I've got them here.

MR. ARGENIO: I asked you to write them down and send them into the town so we can take a look at them.

MR. VRIESEM: You want me to send them in now?

MR. ARGENIO: I'd like you to do that because to sit here and digest that at this juncture would be very unfair.

MR. CORDISCO: I thought the understanding was that it would happen before the public hearing.

MR. ARGENIO: That's precisely the understanding.

MR. CORDISCO: So we could have an opportunity to digest them.

MR. ARGENIO: That's not what happened.

MR. VRIESEM: Seems to me that these gentlemen here should have that kind of information when they come to a public hearing.

MR. ARGENIO: What seems to you is nice but what seems

to us is that we need to enforce in a lawful and equitable fashion the laws and the zoning code of the Town of New Windsor. That's what we're charged with doing.

MR. MORANDO: If I can say something just to clear the record, we have submitted all materials requested by the local code as well as the state and federal regulations.

MR. VRIESEM: I can go and FOIL it.

MR. CORDISCO: You don't need to FOIL it, you can call Nicole and have access to the file.

MR. ARGENIO: It's not a secret and anybody, Ms. Shapiro or anybody else in this room, Mr. Bedetti or Mr. Steidle who has ever requested information certainly will testify that there are no barriers to the door to Nicole's office.

MR. VRIESEM: I've done it before.

MR. ARGENIO: What's your question?

MR. VRIESEM: My one question is how far from the gate is the tower from the property where the sign is that the FCC requires you to put up and you have the road that goes in.

MR. MORANDO: How far from the gate where the FCC sign is? Ask my architect the exact measurements, I don't want to speak out of turn.

MR. CORDISCO: We're talking about an existing tower so I'm not--

MR. VRIESEM: What I'm asking you how far, somebody asked me how far.

MR. CORDISCO: I understand the words that are coming out of your mouth but I'm not understanding the rationale or the relationship to the issue which is before us now.

MR. ARGENIO: Because it's an existing condition.

MR. VRIESEM: It's an existing condition but nobody else here knows the answer that even lives up there, that's what they want to know. Don't they have a right to that information regardless of when this tower was put up?

MR. MORANDO: The information was provided to the town for months now.

MR. ARGENIO: Mr. Architect, do you have an answer to that because if you don't, that information is available at the planning board office.

APPLICANT'S ARCHITECT: Plus or minus 1,000 feet.

MR. VRIESEM: That's about all I've got questions on. I just want to put on record that I'm hypersensitive to electromagnetic fields and radio frequencies that emanate from cell towers and other wireless devices, there are many places I can't go, even here I feel a problem. I suffer from numerous symptoms, I have headaches, chest pains, heart palpitations, I feel like I'm burning and an inability to think properly or concentrate.

MR. ARGENIO: Sam, I have to interrupt you just for a second because I don't know that this is the venue to discuss your medical history.

MR. VRIESEM: I don't know what a public hearing, what they want at a public hearing.

MR. ARGENIO: Go ahead.

MR. VRIESEM: There are other symptoms because I'm on Social Security Disability and I've got doctors' notes and stuff on this and I just think that for the town to not consider the people that have these kind of problems when they put these things up that it's not fair to us and it's discriminatory and that's about all.

MR. ARGENIO: Do you shake or have any ill effects when you drive passed this tower now?

MR. VRIESEM: Yes, I do.

MR. ARGENIO: Literally?

MR. VRIESEM: I don't want them near me whatsoever.

MR. ARGENIO: Do you have anything, any information from a medical professional that would indicate that that is an issue currently?

MR. VRIESEM: I have letters at home, yes, I do.

MR. ARGENIO: Okay.

MR. VRIESEM: I'll bring them to you.

MR. MORANDO: This is again an existing tower, we're not putting up a new tower, we're merely expanding the tower. And just to back up, this could have been brought up at the prior meeting and it could have been provided to us.

MR. ARGENIO: You don't have to do my job, I can do my job, trust me, I got the steering wheel.

MR. MORANDO: I'll get in the passenger seat.

MR. ARGENIO: Is there anything else?

MR. VRIESEM: No, that's it.

MR. ARGENIO: Thank you very much.

MR. VRIESEM: Just wanted to get it on record, thank you, Jerry, I appreciate it. I'll send in that information.

MR. ARGENIO: Anybody else? Madam, please, your name again for the stenographer?

MS. KOSS: My name is Miranda Koss with a K, not a C, 1031, Forest Glen. So based on it being 1,000 feet passed there I'm 2,000 feet if that far from the tower. I'm not, I guess I don't really understand if this is a non-conforming tower because probably it would not be in existence today if our community wasn't there, you know what, why are we thinking of letting it be expanded, I mean, if it's non-conforming, shouldn't we like say stop?

MR. ARGENIO: Is that your question?

MS. KOSS: Yes.

MR. ARGENIO: I'm going to answer that question. I think it was answered at the last public hearing but I'm going to endeavor to go into that again. And if there's anything I miss, Mr. Edsall please chime in. It's a pre-existing, non-conforming use, probably there before most of the folks in the audience bought their homes in the vicinity, voluntarily bought their homes in the vicinity of the tower. The guidance that we have in our town is similar to that of most towns in I'll say the Hudson Valley cause I'm familiar with that, I don't know what what they do in South Dakota. But here the guidance is that we don't, I don't want my town littered with cell towers, I don't want them just because Verizon or MetroPCS or Nextel feels they don't

have a strong enough signal by their standards. I don't want them to propose to throw up a tower everywhere they want because the reality of it is if they meet zoning and they're in conformance they'll get the approval because it will be a lawful approval. Now, it will take them some time, there will be public hearings and public outcry, et cetera, but they'll get the approval. So the guidance is that we encourage these operators and I'm sure that I'm not going to do it but if I ask who in the room didn't have a cell phone with the exception of Sam.

MS. SHAPIRO: And Fran.

MR. ARGENIO: And Mrs. Shapiro, three people, yeah, not, there's very few people without a cell phone. So the guidance is that we encourage these operators to locate on towers that are there already. There's a lot of wisdom in that at least in my opinion in my town that I live in from an aesthetic point of view, I don't want these things all over the place. I think that answers your question.

MS. KOSS: Not exactly, because I guess the question is we don't need more, it doesn't--

MR. ARGENIO: That's not a question, it's a statement. Do you have a question?

MS. KOSS: The question is why do we need to extend it? Why is it necessary? Yes, people do have cell phones.

MR. CORDISCO: If I may, there's a section in the code in New Windsor, the New Windsor Zoning Code that allows and gives the right to a non-conforming use in that area to be extended up to 30 percent. And they're within that threshold because they're one percent in terms of the extension and the matter of height that they're looking for. So that's a right for that property owner in this case for the company to seek an

extension without having to obtain a variance and they could extend further beyond that but it would trigger the need to go to the Zoning Board of Appeals.

MR. EDSALL: Mr. Chairman, also to help on the old issue of timing, again, as far as the pre-existing, non-conforming status, this tower was in before the subdivision was even applied for for approval so the subdivision came after the tower.

MS. KOSS: Right.

MR. SCHEIBLE: Just as a motion here, the tower that's there already, right, to replace that tower, I'm going to ask this gentleman right here for what you want to build right for what you want to build here, how big a tower we would be putting another tower probably close to the same height? Am I right or wrong?

MR. MORANDO: Correct.

MR. SCHEIBLE: And the next question is this gentleman is talking about waves and so forth, I'm not into it, alright, I'm just a man in the background listening to all this, now, what would be the difference if you put a new tower up versus the new tower, is there any difference in waves?

MR. MORANDO: Emission?

MR. SCHEIBLE: Emissions and so forth.

MR. MORANDO: Is there any difference, I mean, is there any difference, there might be microscopic but nothing--

MR. SCHEIBLE: So what you're saying is the addition of one antenna 12 feet with a couple of how many?

MR. MORANDO: It's six antennas.

MR. SCHEIBLE: How much more of the so-called waves or emissions are we going to be looking at?

MR. MORANDO: From what's there now?

MR. SCHEIBLE: Yes.

MR. MORANDO: To give you an exact number, I don't know.

MR. SCHEIBLE: Is that a minimal?

MR. MORANDO: I'd defer to the expert.

MR. OLSON: Christopher Olson, O-L-S-O-N.

MR. SCHEIBLE: The question is by adding, now we haven't said this here last couple of weeks, by adding these additional signals and 10 antenna on there what are we adding in emissions?

MR. CORDISCO: And I think before if I may interrupt myself at this point is that they're free to answer that question, I think Mr. Morando's already answered the question that they're well below threshold that's established by the FCC. But in regards to that as well it's not an issue and everyone should understand it's not an issue that's regulated at the local level. The town has been preempted by the federal government as to that. So that there's a uniform standard as to what's allowed throughout the country and we cannot interject ourselves, we can certainly provide information but we don't and I don't want to give anyone the impression that we can somehow regulate what signal level and signal strength comes off this tower.

MR. ARGENIO: That's what I'd like you to do, provide just a bit of information.

MR. SCHEIBLE: In layman's terms.

MR. OLSON: In layman's terms, we're less than 1/3 of one percent, that's with everybody on the tower so MetroPCS's contribution to that number is there's about five other carriers is probably about 1/5 of that number.

MR. ARGENIO: So we're way in the decimal area?

MR. OLSON: Cause you lose as you get further away from so but assume roughly about 1/5 of that number would be related to our application.

MR. CORDISCO: So it's 1/5 of 1/3 of one percent as I understand.

MR. ARGENIO: Madam, another question?

MS. KOSS: Another question I know certain people were informed, I went around and I got, I have a little petition that I had people sign from our area stating how we do not want this to happen. But people in the Mt. Airy Road section which look at it from their back yard back were very upset that they had absolutely no clue, even though they said it wasn't in the newspaper that they read which is The Times Herald or something so they were actually some of the most upset people because they had no idea that this was going on.

MR. ARGENIO: Okay.

MS. KOSS: But--

MR. ARGENIO: Do you have another question?

MS. KOSS: Well--

MR. ARGENIO: Who is the person prodding you, is he with you?

MS. KOSS: No.

MR. SUSSMAN: I'm Mike Sussman. She said she had a petition, I suggested she bring it up to you.

MR. ARGENIO: If you're going to address this board, please stand up, state your name just like everybody.

MR. SUSSMAN: I wasn't addressing the board. You have addressed me, sir, and I responded to you. You may dictate to everyone else in the room, don't try to dictate to me, sir.

MS. KOSS: I just think that bigger is not always better, it doesn't mean we need more cell phones. Yes, maybe everybody has cell phones but it doesn't mean we have to condone what's going on, it doesn't mean we have to say we need more, we need more, we don't need more, it doesn't help things. We're teaching our children about bigger is better, I don't think that's right. Everybody has to have a cell phone for business, no, you call my office, it's not necessary, we're teaching people that have to do things pronto and I think that as a town we should take a stand and say we have enough, we don't need more. That's it.

MR. ARGENIO: Okay, thank you, ma'am.

MR. MORANDO: Just to state on the record we have complied with all notice requirements.

MR. ARGENIO: I'm certainly aware of that. Anybody else have a question? Madam with the glasses, your name and your address?

MS. JURIK: Rose Jurik, 84 Guernsey Drive, New Windsor. This does have a lot to do on a health issue as far as the radiation or whatever goes on on these towers because--

MR. ARGENIO: I don't know that I quite understand exactly what you're asking.

MS. JURIK: With cell phones you hear too much on people on cell phones you get cancer of the brain, the head, whatever it is. I was wondering the radiation with small children and grownups living around, not now, five or 10 years from now would there be a health issue on this? I'm bringing up something, I don't know, my daughter lives in Monroe and at Nepra that closed down after living there for 10 years.

MR. ARGENIO: The chemical factory?

MS. JURIK: Yes, she had thyroid cancer. When she was in the hospital, there were 20 women with thyroid cancer and they had closed Nepra and at the beginning they said no problem, no problem. I'm worried about now 10 years with the children and the grownups what's going to happen?

MR. ARGENIO: Well, I'm not a scientist, I don't know that I can answer that. Do you have any commentary on that, counselor?

MR. MORANDO: I guess my commentary would be although health effects are totally reasonable, certainly when it comes to cell phones it's really not an issue for this board. It's regulated at a higher level and as counsel said, it's preempted so it isn't something to be considered by this board.

MR. CORDISCO: Yeah, we had just explained the emissions are an issue that's regulated by the federal government and not at the local level.

MS. JURIK: But the more cell phones the more, I can't see little children with the cell phones but anyway they're going to eventually they're going to be

something health wise or something brain, head or whatever goes on.

MR. ARGENIO: They certainly love their cell phones, don't they? My goodness.

MS. JURIK: My grandkids aren't allowed in the house with them. That's it.

MR. ARGENIO: Thank you, ma'am. Anybody else have a question? Question, ma'am?

MS. MADAVIC: I'm Vickie Madavic (phonetic), can we only ask questions or can we give our opinions?

MR. ARGENIO: You can give your opinion.

MS. MADAVIC: Well, I have a couple of questions and I'm sure I'll throw my opinion in there too but I'm here partly because of the health. Everybody knows that it's coming more and more up that there are studies and people are concerned about health dangers to themselves, their children and their grandchildren. And, you know, you can say well, it's a Federal government but it doesn't, the Federal government isn't telling the Town of New Windsor you've got to extend your cell tower and we don't have to do it now. We could decide maybe we don't need it right now. That's one of my questions, do we need this now of all times? Maybe because there are health issues it would be a good thing to do to consider can we hold off on this. If a company comes to the board and says we want to extend our tower, do you have to approve it or can you take the benefits to the community of New Windsor into your decision making? We elect you to make good decisions for us so can you say no, not a good time or like do you say yeah, we'll do it?

MR. ARGENIO: Is that it?

MS. MADAVIC: For now, yeah.

MR. ARGENIO: Go ahead, continue.

MS. MADAVIC: I'd really like an answer to that.

MR. ARGENIO: What I'm not going to have is a debate but I certainly will give you an answer. The planning board is guided by the code in the Town of New Windsor, and the code states certain things that if you have a house, you can't put your house within two feet of your neighbor's property line. It's up to us to look at the applications, consider what they're applying for, see to it that it meets the zoning and then to make an informed decision. A lot of times there's things we can mitigate like sometimes there's an application where an applicant has drainage that they're going to dump onto a neighbor's property, a neighbor will come in and say they're going to flood me out. Well, we can as the planning board attempt to tell them what to do, you can't dump that water there, you need to dump it somewhere else.

MS. MADAVIC: So you're charged with making informed decisions?

MR. ARGENIO: Right, but the decisions we make are guided by the code in the Town of New Windsor probably to act in a lawful fashion.

MS. MADAVIC: But you don't have to say yes to a business if you decide that it's not something that's good for the Town of New Windsor, am I right?

MR. ARGENIO: That's a very generic statement. I'm not going to be questioned like that, that's a very unfair statement, it's broad and sweeping.

MS. MADAVIC: I'm just being honest here.

MR. ARGENIO: And I appreciate it.

MS. MADAVIC: I'm just asking you to consider the welfare of the people, children, the grandchildren of the Town of New Windsor considering all the health issues that are coming out that are not as extreme as this poor man but that may really truly severely affect and be affecting all of us, our children and our grandchildren and in taking that into account do we need it now? I don't hear people complaining oh, I can't get a line in New Windsor, you know. Thank you.

MR. ARGENIO: Thank you, ma'am.

MR. MORANDO: If I could make a statement?

MR. ARGENIO: You may.

MR. MORANDO: As far as public need goes, by receiving the license from the FCC and I hate to keep saying that but by receiving that license there is a determination that there is a public need, the public need which is funneled down from the Telecommunications Act basically saying that they're promoting competition amongst wireless providers and to build out the infrastructures across the country by receiving that license, that's the basis for the public need which removes it from the hands of the board.

MR. SUSSMAN: I'm Michael Sussman, I just want to address that issue. As I understand the law, sir, the first level inquiry is whether you as a new carrier are in a position to utilize the existing infrastructure. You have the burden of demonstrating to this board as a matter of law and empirical evidence that the existing infrastructure is inadequate to meet the needs which you have.

MR. MORANDO: Which we have done.

MR. SUSSMAN: But that is the first in terms of Miss Madavic's question, that's the first level of inquiry you have to meet that need in terms of expansion. I haven't been here for the hearing, I don't know what you presented at the last occasion, I haven't read the study but to be fair, that's the first level of inquiry and you're talking about what the FCC has determined and--

MR. ARGENIO: Just hold for one second, here's what's not going to happen here tonight, it's not going to be reduced to a debate. I certainly appreciate public commentary and you seem like a fairly bright fellow and I welcome your commentary and in a respectful fashion and I'd like to hear it but I want to be careful it's not going to be reduced to a debate.

MR. SUSSMAN: I think in terms of the issue, let me just finish then if you can respond in terms of the issues put before the public and as my understanding of the Planning Board's role and responsibility even with the preemption which counsel correctly speaks about. When I speak about preemption their claims say preemption under the 1996 Telecommunications Act but that preemption does not prohibit this board, the planning board, from making a determination as far as I understand as to whether that standard has been met. I don't know whether the evidence is before the board which says, I did not read the study, but that's a determination they're to meet and I think that does go beyond simply the fact that as you have alluded to or suggested the FCC has granted your company, your company a license so to speak. There are two different issues, the question is the infrastructure in the community and its adequacy.

MR. MORANDO: Just to refer to the prior woman's question was about public need, that's where the basis of public need comes from when you have coverage in the area that becomes the question which--

MR. SUSSMAN: All I can say is the last time this issue came to this community about two or three years ago the Supervisor was here and he was part of the discussion, another company came to the community and made similar arguments and in terms of their need and what was demonstrated to them as I recall the discussion was the infrastructure in place then was sufficient in New Windsor to meet whatever the quote unquote telecommunications were in this community. That need may have expired, you may be speaking about a broader base of operations so to speak.

MR. MORANDO: It's a different company so it's--

MR. SUSSMAN: That doesn't matter, let me just finish, the difference in the company is not the issue. The issue is the adequacy and sufficiency of the expanded infrastructure. Every company has a responsibility under the statute to cooperate with every other company to share their infrastructure. So the, what the gentleman, the chair said earlier is not created which is the proliferation serving each company without the level of cooperation.

MR. MORANDO: Which is why we're trying to go on a current tower already in existence which is to utilize that infrastructure, that's what we're trying to do.

MR. SUSSMAN: The narrower question is whether the 12 foot expansion is necessary or whether the existing infrastructure would satisfy your company's own needs to project. That's all I have to say.

MR. ARGENIO: Thank you.

MR. MORANDO: Which is why we're coming on a tower to use the old infrastructure that's already in place. For our company to comply, for my client's company to comply with these requirements, they need the expansion

that becomes the need for the expansion other than that but I don't think it's up for debate. We provided several studies all evidence to the board which we submitted which the board has which is why we tried to avoid developing a whole other tower. That's the purpose of this application.

MR. ARGENIO: Okay, does anybody else have a question?

MR. VRIESEM: Can I ask one more question?

MR. ARGENIO: You're going to hold that question just for a moment, Sam, so we can give everybody an opportunity. Your name, ma'am?

MS. SHAPIRO: Fran Shapiro, 45 Vails Gate Heights Drive, New Windsor. I've lived here for 40 years, I think I knew you when you first started out and what I have to say--

MR. ARGENIO: In life or at the planning board?

MS. SHAPIRO: Wherever.

MR. ARGENIO: Cause I've been here a long time too.

MS. SHAPIRO: Yes, you have, but you look a lot younger than I do.

MR. ARGENIO: Thank you for the compliment.

MS. SHAPIRO: Many years ago, we stood before you, I don't know if you were there, Jerry, at that time and we had a similar situation and the planning board gave permits, two permits to a soil burner that would incinerate contaminated soil trucked in from the tri-state area. Afterwards, they said we were misled, the planning board apologized, you might remember apologized to the people of New Windsor because they were misled and we thought well, were they misled or

did they know and are just saying they were misled? Well, you never, never know. Meanwhile, it's here for 15 years and we don't know what's coming out of the stack, possibly the fear was dioxin which is a cancer causing chemical. So here we are 15 years later dealing with cell towers. Two were halted as you may know, one the Board of Education said no, no cell tower on our school in Vails Gate, we have the children, we're not taking this chance, we're not doing it, they denied Nextel's application. Another application was made on the firehouse, you probably remember it was not long ago and suddenly, Nextel decided to not go for that. Now that could be because there are a lot of letters in the paper, people were very upset, they signed petitions, they gathered, what does this new technology, what are we doing, we don't have all the evidence, let's wait for the evidence. Let's err on the side of caution. We have 500 signatures of your I think possible customers with your wonderful blacktopping, I see Neil isn't here with his restaurant, 500 signatures of New Windsor people who said we really don't think this is a good idea. I want to present these to you, if I may.

MR. ARGENIO: I'll accept them.

MS. SHAPIRO: And you can look them over, these are your friends and neighbors, I'm sure, and I'm asking you, asking you to take Miss Madavic's suggestions and Mr. Sussman who asked you maybe to think on this a little bit more so that in 10 years from now you won't be saying maybe I'm a grandpa by now and I'm sorry, I was misled, maybe you won't be misled. But why take the chance? Let's wait, let's table this. He's already got five providers on a cell tower, he needs a sixth? I mean, come on, talk about materialism. Before you stop me, I'm going to leave the place and I thank you because you can get touchy and I don't want to get touchy too.

MR. ARGENIO: No, I'm--

MS. SHAPIRO: So I'm going to leave and let you do your thing.

MR. ARGENIO: Miss Shapiro, I'm not touchy, I just want to--

MS. SHAPIRO: You're not touchy?

MR. ARGENIO: Let me finish. I let you finish. I'm not touchy, I just want to keep order and everybody deserves an opportunity to speak.

MS. SHAPIRO: Thank you.

MR. ARGENIO: And that's what I want to do. Anybody else have a comment?

MR. VRIESEM: Yes.

MR. ARGENIO: Okay, Sam, you're the "Z" factor, come on up.

MR. VRIESEM: I just want to ask one question. Whereabouts in else in New Windsor do you plan on going and is there anywhere else you already are?

MR. MORANDO: We received an approval I think that was in March, April or March now for Toleman Road.

MR. VRIESEM: How about Snake Hill?

MR. MORANDO: That's Toleman.

MR. VRIESEM: Cause you're going to have one on Dean Hill. How are you going to feed that section of town?

MR. MORANDO: We can show the coverage plats again if you'd like.

MR. ARGENIO: Yeah, I mean, I just don't know how relevant it is for the public hearing. I appreciate the question, the question is relevant.

MR. VRIESEM: It's part of the need, you know, they need infrastructure, you know, where else are they going to be?

MR. MORANDO: I can show him now, would you like me to bring it up?

MR. ARGENIO: Take a moment and show it and again, this is redundant, we went through this last meeting.

MR. MORANDO: If I can turn this.

MR. ARGENIO: Please be brief, again, we're taking up everybody's time, we did go through this at the last meeting with a fair level of specificity.

MR. OLSON: The blue areas represent coverage from our sites other than the existing and I mean the subject site and the green area represents the subject site coverage in the subject site the dots are locations where our network proposed sites are.

MR. VRIESEM: Alright.

MR. ARGENIO: Okay, anybody else have a--I'm sorry.

MR. VRIESEM: Last time I asked you weren't sure. Has anybody determined who owns Snake Hill? Is it us or Newburgh? Because we asked Newburgh and they said you.

MR. ARGENIO: I don't know who owns Snake Hill, Sam. Check the tax maps, I don't know, I don't know.

MR. VRIESEM: I'll do that, thank you.

MR. ARGENIO: Anybody else have a question? Accept a motion we close the public hearing.

MR. GALLAGHER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion's been made and seconded we close the public hearing. Roll call.

ROLL CALL

MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. BROWN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: That being what it is, I'm going to make a suggestion to the board members and I'm only one guy here. Because of the issue about the nine days instead of 10 last time the nine day notification instead of 10, Nicole did a re-mailing, I just want to read it into the minutes, on the 10th of May, 2010, 49 addressed envelopes containing notice of public hearing went out pertinent to this application. She got the list from the assessor's office so that's part of the record. So I want to make a suggestion on this, guys, there are very few comments technical in nature that Mark has here. Here's what I'm going to suggest and if anybody disagrees with me, I'm okay with it, we can go in a different direction. I'm going to suggest that we let this application lie for one meeting because I think it should and we consider some of the things that some of folks here said tonight and we put these people on our next agenda. And as I said, there's no, there are no technical issues, we just need to consider this as board members and based on the turnout from the public, it certainly does warrant some thought and some dare I say deep thought, we should consider this.

MR. SCHEIBLE: What you're saying is that we ingest what we've heard this evening, which is very appropriate and I'll put this off for another meeting or so so we can ingest what we hear tonight and it was lot of very different situations that I heard and I appreciate--

MR. ARGENIO: Lot of information but at the end of the day, we're charged with doing our job by serving the town, serving the people of the town and making appropriate decisions. Dominic, do you have something to say?

MR. CORDISCO: Perhaps if the board would like, I can perhaps provide some written--

MR. ARGENIO: Did I close the public hearing for the record?

MR. CORDISCO: I could provide additional, perhaps a legal memo regarding the issues that were raised tonight to the members so that you can consider it and have that.

MR. ARGENIO: I think there's a lot of wisdom in that, Dominic, not don't make a six pager, concise, concise is the word of the day as it relates to this.

MR. CORDISCO: Understood.

MR. ARGENIO: And there's a lot of good information but everybody needs to understand that while you may not agree with it cause a lot of times people don't agree with the decisions we make, the decisions we do make we truly believe are in the best interest of the town. And there's a legal aspect here as Dominic just pointed out. Do you guys agree with that?

MR. BROWN: Yes.

MR. FERGUSON: Yes.

MR. SCHEIBLE: Yes.

MR. GALLAGHER: Good thought.

MR. ARGENIO: Yes, sir?

MR. MORANDO: Just to put on record and to be clear I appreciate your suggestions here and I just want to in light of the delay that we received last month we were pushed a month and we would obviously favor having a decision tonight. Clearly you've seemed to make your decision tonight, I was just hoping I can ask when is the next meeting?

MR. EDSALL: June 9th.

MR. ARGENIO: You'll be on that agenda, I'll make it a point that you're on that agenda, this is important and what you just said has not fallen on deaf ears and you're a hundred percent right.

MR. MORANDO: Again, the FCC has set a time limit for co-location to be decided within 90 days and coming up in June we're coming up on the deadline, that's something to be considered, I can provide information if you so need.

MR. ARGENIO: No, we're going to decide at the next meeting, it's going to go or go away like everything else. Okay?

MR. MORANDO: Thank you, sir.

REGULAR_ITEMS:

DR._SINGH_(08-18)

MR. ARGENIO: Regular item, first one Dr. Singh. Application proposes construction of a two story 16,000 square foot medical office building on a 10 plus acre site. Plan was previously reviewed at the 12, November, 2009 and 18 November, 2009 planning board meetings. Sir, can I have your name and the firm you're with for the benefit of Franny?

MR. RAAB: My name is Jim Raab, I'm with Tectonic Engineering in New Windsor.

MR. ARGENIO: Tell us what you're doing.

MR. RAAB: We have a 10 acre piece of property bordered on the east by Cullen and north by Silver Springs Road and west by Route 9W, approximately 4,400 feet passed the intersection with Union Avenue. We propose 16,000 square foot building, 8,000 square feet per floor, 86 parking spaces were proposing for the entrance, it was a point we had to make last time we're proposing for the entrance to be a right turn in, okay, and right turn out only separated entrance which has gotten at least conceptual review from the state DOT. I believe the planning board secretary has a letter from Sibby Zachariah Carbone, the permitting engineer who has it presently under review. We believe we have met all the concerns of the SWPPP and storm water SPDES that McGoeys, Hauser & Edsall requested and we're here to see if we can move this forward tonight.

MR. ARGENIO: What exactly has the DOT told you?

MR. RAAB: DOT said that this entrance is fine, they may have some issues with the way we're addressing the drainage and the curb lines but the entrance is fine.

MR. ARGENIO: Point to where the right-of-way is.

MR. RAAB: Right here.

MR. ARGENIO: You think it would be nice to maybe have a little bit more vegetation in front of the building?

MR. RAAB: Sure.

MR. ARGENIO: You agree with me?

MR. RAAB: Yeah, I have no problem.

MR. SCHEIBLE: Just to familiarize myself, is that piece of property owned by the Ostners?

MR. RAAB: Yes, the old brick works.

MR. ARGENIO: This is either Mr. Ostner's property or just south of that.

MR. SCHEIBLE: Senior, that was the piece of property.

MR. RAAB: Yes, that's correct.

MR. SCHEIBLE: And there's a deep slope that comes off there.

MR. RAAB: Yes, well, as was pretty well confirmed by the way this drawing is there's a bunch of peaks and valleys all the way through here which we intend to smooth out and raise up which is why the drainage was such a concern for McGoey, Hauser & Edsall so we believe we've gotten all that under wraps right now so--

MR. SCHEIBLE: So the potential here is to bring fill in?

MR. RAAB: Yes, well, yeah, there's going to be, yes,

some potential fill happening.

MR. SCHEIBLE: Okay.

MR. RAAB: Yes.

MR. SCHEIBLE: Just bring that up.

MR. ARGENIO: What page is the drainage plan?

MR. RAAB: This one here, page 10.

MR. SCHEIBLE: East of that is?

MR. RAAB: Cullen Avenue, that's going to be the initial construction entrance.

MR. ARGENIO: That's this here?

MR. RAAB: This right in here.

MR. ARGENIO: What am I looking at?

MR. RAAB: That's the swale.

MR. ARGENIO: Is that, that's a wall?

MR. RAAB: It's a swale.

MR. ARGENIO: Is that because you don't own that property?

MR. RAAB: It's just a swale, it's because we don't want to have to disturb anymore of that area.

MR. ARGENIO: There's a bit going on here with this drainage.

MR. EDSALL: That's why it took so long for the SWPPP to get resolved.

MR. SCHEIBLE: When I say east, that's going towards the river?

MR. EDSALL: Yes.

MR. RAAB: That's why there's substantial detention.

MR. ARGENIO: Guys, Harry and Howard and Danny, you guys are awful quiet tonight, if you have something to say, just chime in. I want to read from Mark's comments. The proposed water main within 9W will likely be dedicated to the town, the six inch size is unacceptable, a hydrant at the termination should be depicted. Please contact John Agido the Water Superintendent.

MR. RAAB: We have been in contact with the Water Superintendent, he's not returned my last phone call but I'll make sure I follow up on that. Because we were figuring it was only going to be for a service line.

MR. EDSALL: Generally, when mains are extended along public roads, those extensions are added to the town system.

MR. RAAB: That's not a problem so we're talking 12?

MR. EDSALL: Eight or 12.

MR. RAAB: We'll clear that up with the Water Superintendent.

MR. ARGENIO: So you realize you're going to have to or your client is going to have to sprinkler the building, you're aware of that?

MR. RAAB: Absolutely.

MR. ARGENIO: Okay, am I going to find a landscaping plan?

MR. RAAB: That's right here.

MR. ARGENIO: That's not what I'm looking for, that's a colored rendering of some landscaping. Am I going to find a landscaping plan that will be submitted with this set that will remain on file in the Town Hall? Does that exist?

MR. RAAB: Well, this is sheet 3 and it has the landscaping on it.

MR. ARGENIO: Would you take a look at the landscaping plan namely in the front near 9W cause in the back I don't think anybody's going to see it?

MR. RAAB: It's basically right in front of here, you'd like to see some more trees obviously?

MR. ARGENIO: With a flag pole in front of it. I don't want to spend Dr. Singh's money but if he had a flag pole in front of the building we typically ask that of applicants.

MR. RAAB: No problem, Mr. Chairman. Any particular place?

MR. ARGENIO: No, in the front of the building is nice, like I said, it's not atypical for us to ask that.

MR. RAAB: We're going to open this all up right now, there's a ridge in front, you can't see it now and we're taking that ridge down, that's where the substantial amount of fill is.

MR. SCHEIBLE: That's why I was asking.

MR. RAAB: We're going to be opening up, yes, it should

be addressed, we'll get some trees in here, we concentrated so much on the drainage.

MR. ARGENIO: Mark, what about county on this?

MR. EDSALL: Because the development was so much in flux because the SWPPP was the tail wagging the dog.

MR. ARGENIO: Seems to me we're at a level of fitness where we can go there.

MR. EDSALL: Now we are but it didn't go until Have reached this point so it's got to be sent and it's been around for a while. So when I checked the file, it had not been sent yet, it has not yet gone to DOT because the grading was still being worked out of the several SWPPP submittals--

SUPERVISOR GREEN: Mr. Chairman, prior to taking any action on this, I'd like to see this come back to the infrastructure committee. We're doing some off-site drainage planning where we have a serious issue down on River Road. I'd like to see the drainage and like to bring this back to the infrastructure committee.

MR. RAAB: I understand, you're saying there's off-site drainage concerns, Mr. Supervisor?

SUPERVISOR GREEN: That's correct.

MR. ARGENIO: You have a giant swale going to the east down a fairly steep hill and Supervisor Green's probably right, if there are concerns down there already we should certainly overlay this on top of what we already have in that area and make sure that the package works.

SUPERVISOR GREEN: I point out to the board that we do have a street closed because of drainage issues down there, we have a street torn up and we're looking at a

CDBG grant to rectify that drainage system.

MR. ARGENIO: Okay, the thing is, Mr. Supervisor, I don't know how far we're going with this tonight. We're reviewing it, there's a lot of issues out there with it, Mr. Brown worked hard trying to get the SWPPP squared away, it appears as though he did so certainly we're not at the 99 yard line. I know you don't attend every meeting but you attend most meetings, we're certainly not at the 99 yard line.

MR. RAAB: Can I point something out to the board? Most of the water that goes through this site is out of our control, it's wetlands and it's been designated as such and we're trying to stay as far as away from it as we can, we do have a slight disturbance right here but it's something we couldn't avoid so I wanted to bring that out that we really have no control of the water that goes through the site. We're not increasing the flow, that's the whole thing about the storm water speed is that we're not increasing.

MR. SCHEIBLE: Parking areas always increase the problem.

MR. RAAB: Well, that's the reason why the SWPPP is so extensive.

MR. ARGENIO: I don't want to answer for the applicant but the intent of the pond is to mitigate that initial--

MR. RAAB: The increase.

MR. ARGENIO: --shot of extreme flow, that's the intent of the pond that you see to the east, Henry.

MR. EDSALL: Mr. Chairman, from a procedural standpoint as I indicated this has not gone very far because of the SWPPP and as Mr. Scheible pointed out it's a

difficult area, you're looking at some steep slopes and trying to build into a hill and also contain storm water is a trick and they've made a lot of progress.

MR. ARGENIO: This has been a bad lot from day one, even before Dr. Singh owned it.

MR. EDSALL: It's a difficult lot and they're working those things out. But what I would suggest is that you deal with comments 4, 5 and 6 which will start the ball rolling with some procedural issues and concurrently we can send it over to the infrastructure committee.

MR. ARGENIO: I agree. The one comment I want to make in addition to what Mark just said Nicole I want to make sure that the fire folks sign off on this because there are some lane width restrictions that could possibly be an issue. So let's make sure that we get those folks, no reason we can't circulate for the lead agency, is that correct?

MR. CORDISCO: You can circulate.

MR. ARGENIO: I'll accept a motion.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion's been made and seconded that the Town of New Windsor circulate for lead agency on the Dr. Singh office building. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Please act on number 5, I don't think we need to vote, let's get it out to county so they can take a look.

MR. EDSALL: Will do.

MR. ARGENIO: DOT is something, who does DOT, Mark?

MR. EDSALL: We do that, we send that out.

MR. ARGENIO: We made some comments, you have a dumpster enclosure, landscaping, looks very thin to me, you have a fence in the back which I think is absolutely necessary. Is there a detail of that here and is it of some substance?

MR. RAAB: Is there a detail of fence and is there some substance, I believe it is, yes, I believe we have a detail.

MR. ARGENIO: Mark, would you look close at the fence, that slope is awful steep in the back, I wouldn't want somebody going down there.

MR. RAAB: There's actually a guardrail.

MR. ARGENIO: Even better.

MR. RAAB: And there's a detail included in the details sheets, I think it was requested by McGoe, Hauser & Edsall so that's the reason why it's there.

MR. ARGENIO: What am I missing to the professionals?

MR. EDSALL: No, the bottom line is they haven't been here for a while as can be noted, it's been quite a while since they first made the application but they have been making some good progress on what I think is the biggest issue which is grading and storm water. So

now we need to start the rest of the process. So not much more you can do tonight.

MR. FERGUSON: I only see two light poles, is that enough light?

MR. ARGENIO: Mark, what about the lighting? There's more than two, Harry, I see 1, 2, 3, 4, 5.

MR. EDSALL: I'll doublecheck, but I believe it was okay.

MR. ARGENIO: Harry, look on page 4 of 12, it shows all the isolux curves, gives you an idea of at least look at that and see where the lighting is fading out.

MR. RAAB: Mark asked for that sheet.

MR. SCHEIBLE: I have one more little question here as we're coming out the main lot and the driveway heading up onto 9W, how much of a slope is that?

MR. RAAB: Not much at all.

MR. SCHEIBLE: Okay, that's okay.

MR. ARGENIO: I thought you were going to say you wanted a sidewalk on 9W Henry.

MR. SCHEIBLE: Yeah, from here to Newburgh.

MR. ARGENIO: Danny, anything else?

MR. GALLAGHER: No.

MR. ARGENIO: You guys, anything Henry, other than the sidewalk to Newburgh? Am I missing anything? Thank you for coming in tonight.

ANTHONY'S_PIER_9_LOT_LINE_CHANGE_(10-13)

ANTHONY'S_PIER_9_SITE_PLAN_(10-14)

MR. ARGENIO: Anthony's Pier 9 application proposes lot line change between Pier Properties and R & D Properties. The plan was previously reviewed at the 28 April, 2010 planning board meeting. I'm going to read the header for the next application as well. Pier Properties LLC site plan amendment application follows lot line change with the northerly neighbor and proposes enhanced outdoor landscaping areas on the north and south ends of the existing building. The plan was previously reviewed at the 28 April, 2010 planning board meetings. We're going to review these concurrently, guys. Dominic, follow me closely in case I misstep here and rudely interrupt me here if I do misstep.

MR. CORDISCO: I would love to.

MR. ARGENIO: Essentially, if everybody remembers this is a lot line change at Bonura's Pier 9. They want to have some outdoor weddings and such. I see Mr. Bonura Junior is here. Tell us what you've done and refresh us on this place.

Mr. Michael Bonura appeared before the board for this proposal.

MR. BONURA: Well, for the first application in the lot line change we took Mr. Edsall's comments and resubmitted the plans as such. We didn't really hear anything else material from the planning board related to that application so we met the three comments, I believe and resubmitted the plans and hopefully they meet with Mr. Edsall's approvals. In terms of the second application, the site plan amendment, once again, we took Mr. Edsall's comments and updated the

sheets. As such, we have included the landscaped detailed sheets as part of this submittal, whereas we hadn't at the previous submission and there are notes on the site plan amendment noting which landscaped sheets pertain to which specific landscaped area. Sheet 1 is the, sheet 1 and 2 are the landscaping area to the north of the existing building which is where the lot line change is taking place. And sheet 3 pertains to the landscaping area to the south of the building which is in the existing Pier 9 parking lot. That's basically all that's been done since our last meeting. We took your comments, Mr. Chairman, to heart in terms of using the gravity based retaining wall system for our retaining wall on the north side garden we updated.

MR. ARGENIO: Are you using that type of wall?

MR. BONURA: Yes, sir, and if you take a look at landscaping sheet to 2, you'll see the landscaping from Readyrock which is the choice at this point, obviously, the specifics we'll submit as part of the final drawings, but sheet 2 shows the actual just to keep it clear as possible put a big X through the small block system with a note that we'll be using a gravity based wall system from Readyrock.

MR. ARGENIO: Okay, members, what do you have? Let me just make it clear to everybody, we're reviewing these things jointly because the lot line change is so innocuous and we have to do the same procedural issues for both, so let's tie it all up in one when you make a motion, we're making a motion for both. I want to do some procedural things while you guys take a look at this. There are no other involved agencies in this so as such, I'll accept a motion we declare ourselves lead agency.

MR. GALLAGHER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion's been made and seconded we declare the Town of New Windsor Planning Board lead agency for the Bonura application. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. EDSALL: Mr. Chairman, just so the record is absolutely clear with SEQRA, you can look at it as being one action even though you have two separate applications. So for SEQRA, in fact, Mr. Cordisco and I have approved this and his resolutions treat it as one action.

MR. CORDISCO: We have prepared one written negative declaration but so that the record is complete and proper, each application the one for the lot line change and site plan has its own separate resolutions, so my suggestion would be to actually have all resolutions done separately for both of them. You can consider them all at one time, it's not like you have to grant the lot line change now and then discuss the site plan after it but when you come time towards adopting it--

MR. ARGENIO: Thank you. If anybody sees fit, I'll accept a motion that we declare a negative dec on these applications.

MR. BROWN: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion's been made and seconded. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. EDSALL: If I could relative to the lot line change application, Mr. Bonura is absolutely correct, they have addressed all my comments and relative to the, relative to County Planning--

MR. ARGENIO: I've heard on both of them and both of them say local determination.

MR. EDSALL: You're all set.

MR. ARGENIO: What about fire, anything? Anything from highway? I don't think we need it but is there any comment?

MS. JULIAN: No.

MR. CORDISCO: One outstanding in connection with the lot line change, one question that Mr. Edsall raised and I think it's an appropriate one is that the two lots are in a separate ownership, there's Pier Properties LLC and R & D Properties.

MR. ARGENIO: Dominic, you've got to give me a chance, man, is there any intent of any point in time to combine the lots?

MR. EDSALL: Just so the record is clear, I'm not talking about combining the lot that they're acquiring from R & D that has to be added in to the Pier

Properties lots that can't be transferred and be kept as a separate tax lot. My question pertains to--

MR. ARGENIO: There are several other lots on this parcel so to speak. Is there any intent to combine the other lots together at any point in time?

MR. BONURA: The Pier Properties lot not at this point, our intent is to keep them as separate lots.

MR. EDSALL: I asked Mr. Rosenblum who is the architect who's worked with these gentlemen for years that question since I ran into him separate from these proceedings he explained to me that there's a history going back to the DOT and more than one access to the property that DOT if they combine them may begin to not allow them.

MR. ARGENIO: They may have a problem with having two accesses.

MR. EDSALL: So they basically are availing themselves of the lots to not lose rights to access to 9W.

MR. ARGENIO: Makes sense, certainly you can't hate you for that.

MR. BONURA: Thank you, sir.

MR. SCHEIBLE: That acquisition was already made.

MR. BONURA: In principle, we're waiting to sign the documents until we get approval.

MR. ARGENIO: Guys, anything else here? Anybody have anything else anything?

MR. GALLAGHER: The fountain on the outside, is it a deep, is it a water fountain with a foot worth of water?

MR. BONURA: Yes, everything is above grade, nothing is going to go into the ground other than the footings, it's a raised 18 inches to 2 foot berm around the pool water feature above but nothing for anyone to be able to fall into.

MR. GALLAGHER: Children running around at a wedding.

MR. BONURA: Children running around at a wedding should be more than adequately taken care of by the walls that are decorative in front.

MR. SCHEIBLE: It's all indoors?

MR. BONURA: It's outdoors.

MR. ARGENIO: Mark, am I missing anything?

MR. EDSALL: No.

MR. ARGENIO: Other than subject-tos?

MR. EDSALL: No, my suggestion is we deal now with the lot line change to get it out of the way.

MR. ARGENIO: Okay, can we not act together on this?

MR. EDSALL: My suggestion is that since you have separate applications and the town law treats them at separate applications, I would give them separate approvals.

MR. ARGENIO: Sir, do you have a copy of Mark's comments?

MR. BONURA: These comments from this evening? No, I do not.

MR. EDSALL: Here they are.

MR. BONURA: I do now.

MR. ARGENIO: Mark, I don't see any subject-tos.

MR. EDSALL: No, for the lot line change you can.

MR. ARGENIO: I'll accept a motion that we offer final approval for the lot line change for Pier Property.

MR. SCHEIBLE: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion's been made and seconded that the Town of New Windsor Planning Board offer final approval for Pier Properties on 9W. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: There are a couple comments on Pier Properties, Mr. Bonura, and any approval that is offered is subject to those. Minor stuff, it seems to me clean up the handicapped detail, bond estimate, handle the fees and anything else on Mark's six item comment list that I may have missed? If anybody, did I miss anything?

MR. EDSALL: No, there aren't six comments but there's six procedural items referenced, you have already taken the negative dec, we have acknowledged the local determination, both for the site plan, bond estimate you indicated no--

MR. ARGENIO: Motion for final approval.

MR. GALLAGHER: I'd like to make a motion for final approval for Pier Properties LLC site plan.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you Mr. Bonura for coming in.

MR. BONURA: Thank you.

BAXTER_SUBDIVISION_(10-11)

MR. ARGENIO: Harold Baxter minor subdivision application takes 2 tax lots and reconfigures the same to result in one lot on the east side and one on the west side of Jackson Avenue. The plan was previously reviewed at the 14 April, 2010 planning board meeting. Again, I would, I recall this as a fairly simple thing. Sir, can you tell us who you are and what firm you're with?

MR. DALEY: Yes, I can, my name is Robert Daley and I'm with Robert Daley Land Use and Development Planning. Nice to be here before the board tonight.

MR. ARGENIO: Briefly what was the genesis of the desire to do this briefly?

MR. DALEY: The entire parcel if you look here outlined in green is separated by Jackson Avenue. The entire parcel is 100 and I forget what the number is 115 acres and what Harold is doing is his intent was to take this side of the road which would be lot 1, 18.8 acres and make it a separate parcel, put a house on it in which his son and daughter-in-law will live. He lives across the street, Harold Junior lives across the street in the existing brick house and Jackson Avenue was the natural dividing line, it's an existing town road. We made as part of this application we put in there that there would be a dedication to the town for future highway purposes. And when we were last here before the board there were a couple of items that needed to be addressed, specifically percolation tests, percolation tests had been done, they were witnessed and they have come back fine. And the design is shown on the second page of the plans that you have before you.

MR. ARGENIO: Yeah, I don't want to see the technical aspect. Mark, do they work? You reviewed it. I'm

sure they're very slow.

MR. EDSALL: It's fine.

MR. ARGENIO: That's what we're concerned about.

MR. DALEY: We were also at the last meeting question came up about going to Orange County Planning and I know at this point in time that it had been referred to Orange County Planning.

MR. ARGENIO: They responded with local determination.

MR. DALEY: And at the last meeting, the town declared itself lead agency and we were happy to make that and then there was one other question which did come up which was the realignment of Jackson, I know at some point in time someone had--

MR. ARGENIO: I asked you the question.

MR. DALEY: And, you know, I have no sense one way or the other that the town is moving forward on that but I do know that the highway superintendent has given a road access for the existing drive to come in there.

MR. SCHEIBLE: Where is the drive going to that lot 1?

MR. DALEY: It's coming off, I'm going to show it to you right here on this one here, I would be over here, it comes down to this corner of the existing house.

MR. SCHEIBLE: And this whole area says marshy area. Is that declared wetlands? Just bring me up to snuff.

MR. DALEY: You know, I'm not going to tell you that it is declared wetlands because I don't know that for a fact, sir, where the part of the property it's 18.8 acres and so part of the property that we're using we're nowhere near it. There was really no reason to

go down there.

MR. ARGENIO: I have fire approval on 4/12, I have highway approval on 4/12, I have 911 approval, county says local determination. Mark's comment number 2 we have reviewed the revised set of plans submitted for this meeting, all previously mentioned comments have been addressed and/or resolved. Mark, anything on the Jackson Avenue business?

MR. EDSALL: I referred it over to Dick McGoey and my understanding is that he looked at it and he has not raised any concern to my attention.

MR. ARGENIO: Does anybody have anything?

MR. SCHEIBLE: This is clean cut.

MR. ARGENIO: Basic stuff. I'll accept a motion for final approval subject to I think payment of fees and that's it.

MR. CORDISCO: Did you adopt a negative declaration?

MR. ARGENIO: We'll do it again, doesn't cost anything to do it twice. I'll accept a motion we declare negative dec on this application.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE

MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. ARGENIO: I'll accept a motion for final subject to
payment of fees.

MR. SCHEIBLE: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion made and seconded. Roll call.

ROLL CALL

MR. FERGUSON AYE
MR. BROWN AYE
MR. GALLAGHER AYE
MR. SCHEIBLE AYE
MR. ARGENIO AYE

MR. ARGENIO: Thank you, sir.

MR. DALEY: Thank you.

DISCUSSION

CIMORELLI_ECONO_COLLISION_CENTER_SITE_PLAN_(08-12)

MR. ARGENIO: Mark?

MR. EDSALL: One item the board received a letter from Minuta Architecture in connection with application 08-12, the Cimorelli Econo Collision Center site plan amendment that application received conditional approval on March 11, 2009. They indicate in the letter that because of the economic conditions, they were not able to move forward within the 360 day period. Their approval has expired and they're seeking a reapproval. I'm aware of no changes that would prohibit you from as per your normal procedure granting a new conditional site plan approval with the conditions being identical.

MR. ARGENIO: Same terms and conditions, everything the same?

MR. EDSALL: Yes.

MR. GALLAGHER: Spray booth in the back?

MR. ARGENIO: Yes. Just so everybody knows, Joe Minuta did call me last week and he said look, my client is having a tight time with money and he wanted to put the spray booth in, he didn't do it because finances are tight which I'm certain everybody can understand. And he's petitioned Mr. Edsall to put him on the agenda and get this thing moving. While I set the agenda, Mark certainly does go through everything and make sure everybody is ready to be on the agenda. I'm not going to put anybody on the agenda without them being prepared. As such, that's what's before us.

MR. GALLAGHER: Looking for an extension?

MR. ARGENIO: That's it.

MR. EDSALL: It's not an extension, it's a reapproval.

MR. CORDISCO: It would start a new 360 day clock.

MR. EDSALL: There are no reasons under SEQRA why there's a change in your prior decision.

MR. ARGENIO: Motion to that effect with all the original terms and conditions.

MR. GALLAGHER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion's been made and seconded. Roll call.

ROLL CALL

MR. FERGUSON	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

METROPCS - _CONTINUED_DISCUSSION

MR. CORDISCO: One of the speakers at the public hearing on MetroPCS had mentioned that they had some written materials but had forgotten to hand them up so they handed them to me, they jewels wanted to make sure that the record reflected that they're being turned in. At this point, I would recommend the public hearing's been closed, I will provide a memo to the board, the petition and these materials are part of the record and we can make--

MR. ARGENIO: Let me say what I have to say and I'm going to look to you, I think the most efficient and effective thing to do is acknowledge the fact that these are part of the public record and again in the interest of the town and efficiency I don't see the need to specifically circulate them to the members but I would like the members to take a stop by Town Hall and to take a look at these so they have the benefit of all this information. In addition to that, Dominic is going to craft us a concise memo about some of the legal things that Mr. Sussman got into tonight that I'm not aware of cause I'm not an attorney and hopefully, Dominic will comment on it and clear any gray areas up. But I would encourage everybody to go take a look at that Town Hall. Dominic, did I miss anything?

MR. CORDISCO: No, sir.

MR. ARGENIO: Thank you. Anybody have anything else? Motion to adjourn.

MR. GALLAGHER: So moved.

MR. SCHEIBLE: Second it.

ROLL CALL

MR. FERGUSON AYE

May 26, 2010

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MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

